

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY)	
AVERAGE WHOLESALE PRICE)	
LITIGATION)	MDL No. 1456
)	
THIS DOCUMENT RELATES TO:)	Master File No. 01-CV-12257-PBS
)	
<i>State of Montana v. Abbott Labs., Inc., et al.,</i>)	Judge Patti B. Saris
D. Mont. Cause No. CV-02-09-H-DWM)	
)	

DEFENDANT ASTRAZENECA PHARMACEUTICALS LP's
MOTION FOR LEAVE TO FILE CERTAIN DOCUMENTS UNDER SEAL

Defendant AstraZeneca Pharmaceuticals LP ("AstraZeneca") respectfully moves this Court for leave to file under seal the Declaration of James J. Duffy Transmitting Certain Documents Under Seal ("Duffy Declaration Under Seal"). As grounds for this Motion, AstraZeneca states:

1. On February 8, 2007, AstraZeneca filed a Memorandum of Law in support of its Motion for Summary Judgment, along with a Local Rule 56.1 statement of undisputed material facts ("AstraZeneca 56.1 Stmt.").

2. AstraZeneca's 56.1 Statement references the Declaration of James J. Duffy in Support of the Individual Memorandum of Law in Further Support of AstraZeneca Pharmaceuticals LP's Motion for Summary Judgment ("Duffy Declaration"), which attaches various documents as exhibits. Certain of these exhibits were not filed, noting that they would be filed separately under seal.

3. Pursuant to the Protective Order entered by this Court on December 13, 2002 (the "Protective Order"), both parties in the above-captioned cases and non-party witnesses have designated numerous documents and other information produced in the litigation as either

“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL.” Pursuant to Paragraph 15 of the Protective Order, any document or pleading containing materials designated “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” shall be filed under seal.

4. Because certain exhibits to the Duffy Declaration have been designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL,” AstraZeneca seeks to file under seal the Duffy Declaration Under Seal, to which are attached the “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” documents.

a. Attached hereto as Exhibit 1 to the Duffy Declaration Under Seal (Exhibit 7 to the Duffy Declaration) is a true and correct excerpted copy of the Deposition of Jeffrey Buska, dated December 15, 2006, pages 571-573. This deposition was designated as “HIGHLY CONFIDENTIAL.”

b. Attached hereto as Exhibit 2 to the Duffy Declaration Under Seal (Exhibit 8 to the Duffy Declaration) is a true and correct excerpted copy of the Declaration of Raymond S. Hartman in Support of Plaintiffs’ Claims of Liability and Calculation of Damages, dated December 15, 2005 (“Hartman MDL Decl.”), ¶ 33. Each page of this document is marked with the phrase “Contains Confidential Information Subject to Protective Order,” and indicates on the cover page that it was filed under seal pursuant to court order.

c. Attached hereto as Exhibit 3 to the Duffy Declaration Under Seal (Exhibit 9 to the Duffy Declaration) is a true and correct excerpted copy of the Deposition of Raymond S. Hartman, dated February 27, 2006 (“Hartman I Dep.”), pages 664-66. This deposition was designated as confidential.

d. Attached hereto as Exhibit 4 to the Duffy Declaration Under Seal (Exhibit 10 to the Duffy Declaration) is a true and correct excerpted copy of the Deposition of Raymond S. Hartman, dated August 22, 2006 ("Hartman II Dep."), pages 31-33. This deposition was designated as confidential.

WHEREFORE, AstraZeneca respectfully requests that its motion for leave to file the aforementioned submission under seal be GRANTED.

Dated: February 9, 2007

Respectfully Submitted,

By: /s/ Katherine B. Schmeckpeper

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CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1

I hereby certify that counsel for AstraZeneca conferred with counsel for Plaintiff State of Nevada on February 8, 2007, in a good faith effort to resolve or narrow the issues set forth herein, and counsel to the Plaintiff indicated that Plaintiff does not assent to this motion.

/s/ Katherine B. Schmeckpeper
Katherine B. Schmeckpeper

CERTIFICATE OF SERVICE

I, Katherine B. Schmeckpeper, hereby certify that a true copy of the foregoing document was served upon all counsel of record in the Nevada action electronically pursuant to Fed. R. Civ. P. 5(b)(2)(D) and CMO No. 2 on this 9th day of February, 2007, by causing a copy to be sent to LexisNexis File & Serve for posting and notification to all counsel of record.

/s/ Katherine B. Schmeckpeper
Katherine B. Schmeckpeper